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September 3, 2004  
DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: April 21, 2004

Case Number: TSO-0102

This Decision concerns the eligibility of xxxxxxxxxxxxxxxxxxxx (hereinafter "the individual") for continued access authorization. The regulations governing the individual's eligibility are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." This Decision will consider whether, based on the testimony and other evidence presented in this proceeding, the individual's suspended access authorization should be restored. For the reasons detailed below, it is my decision that the individual's access authorization should not be restored.

I. BACKGROUND

In January 2004, the Manager of the Personnel Security Division, National Nuclear Security Administration (NNSA), Department of Energy (DOE) issued a Notification Letter to the individual, stating that the DOE was in possession of derogatory information that created a substantial doubt concerning his continued eligibility for access authorization. In the Notification Letter, the Manager also informed the individual that he was entitled to a hearing before a hearing officer in order to respond to the information contained in the Notification Letter. The individual requested a hearing in this matter and the NNSA forwarded this request to the Office of Hearings and Appeals. I was appointed to serve as the hearing officer. In accordance with 10 C.F.R. § 710.25(e) and (g), I convened a hearing in this matter (hearing).

The Notification Letter finds security concerns related to the individual's behavior under Criterion J. 10 C.F.R. § 710.8(j). Criterion J security concerns relate to the use of alcohol habitually to excess or a diagnosis of alcohol abuse or dependence.

The Notification Letter bases the security concerns on a September 26, 2002, report by a DOE consulting psychiatrist. In that report the consulting psychiatrist diagnosed the individual as suffering from alcohol abuse.

## II. REGULATORY STANDARD

In order to frame my analysis, I believe that it will be useful to discuss briefly the respective requirements imposed by 10 C.F.R. Part 710 upon the individual and the hearing officer. As discussed below, once a security concern has been raised, Part 710 clearly places upon the individual the responsibility to bring forth persuasive evidence concerning his eligibility for access authorization, and requires the hearing officer to base all findings relevant to his eligibility upon a convincing level of evidence. 10 C.F.R. §§ 710.21(b)(6), 710.27(b), (c), (d).

### A. The Individual's Burden of Proof

It is important to bear in mind that a DOE administrative review proceeding under this Part is not a criminal matter, where the government would have the burden of proving the defendant guilty beyond a reasonable doubt. Once a security concern has been raised, the standard in this proceeding places the burden of proof on the individual. It is designed to protect national security interests. The hearing is "for the purpose of affording the individual an opportunity of supporting her eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). The individual must come forward at the hearing with evidence to convince the DOE that restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a).

This is not an easy evidentiary burden for the individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring an access authorization. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of access authorizations indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of an access authorization). Consequently, it is necessary and appropriate to place the burden of persuasion on the individual in cases involving national security issues. In addition to her own testimony, the individual in these cases is generally expected to bring forward witness testimony and/or other evidence which, taken together, is sufficient to persuade the hearing officer that restoring access authorization is clearly consistent with the national interest. *Personnel Security Hearing (Case No. VSO-0002)*, 24 DOE ¶ 82,752 (1995).

### B. Basis for the Hearing Officer's Decision

In a personnel security case under Part 710, it is my role as the hearing officer to issue a decision as to whether granting an access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). I must examine the evidence

in light of these requirements, and assess the credibility and demeanor of the witnesses who gave testimony at the hearing.

### III. BACKGROUND

The record in this case indicates that the individual had problems with alcohol during his military and college years. As a result of the alcohol related problems during 1996, the individual attended alcoholics anonymous(AA) for five months and decided to stop consuming alcohol. Transcript of Personnel Security Hearing (Tr.) at 34. After a year of abstinence the individual resumed consumption of alcohol on a social basis. During October 2001 and July 2002 the individual was arrested for driving while intoxicated (DWI). 1/

As a result of the individual's reporting his July 2002 DWI, he was sent for an evaluation by a DOE consulting psychiatrist. In the September 2002 evaluation report, the DOE consulting psychiatrist diagnosed the individual as suffering from alcohol abuse. In January 2004 the individual received a Notification Letter setting forth the security concern described above. The individual requested a hearing to respond to the concern raised in the Notification Letter. At the hearing the individual presented his own testimony and presented the testimony of the EAP counselor, his girl friend, his former girl friend, his parents and three co-workers. 2/ The DOE presented the testimony of the DOE consulting psychiatrist.

### IV. TESTIMONY

#### 1. The Individual

The individual indicated that he has a problem with alcohol consumption. Tr. at 11. He focused his testimony on information to mitigate the DOE security concern. In the first part of his testimony he provided information about the counseling he has received. In the second part of his testimony he talked about his abstinence since October 2001. He believes the counseling and abstinence both mitigate the DOE security concern.

#### a. Counseling

In his testimony the individual gave the following information about the counseling he has received. In June of 2002 his management requested that the site PhD clinical psychologist (hereinafter "site clinical psychologist") evaluate him and determine if he is "fit for duty." Tr. at 17. After that evaluation the individual was counseled by the EAP counselor on a weekly basis for approximately

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1/ Appendix A provides a chronology of dates and events referenced in this Decision.

2/ After the hearing the individual submitted 21 pages of documents. This documents are an official part of the administrative record in this proceeding.

one year. Tr. at 17. As part of the counseling, he passed weekly random alcohol breathalyzer tests. Tr. at 17. A February 1, 2003 memorandum indicates that after the counseling sessions the site clinical psychologist found the individual “fit for duty.” Tr. at 22, Individual Exhibit #2. The individual testified that after the required EAP counseling sessions led to a determination that he was “fit for duty,” he did not believe that additional counseling was necessary. Tr. at 168.

In August 2003 the individual started receiving counseling from a second source. That counselor was a psychologist appointed by the court (hereinafter “court appointed counselor”). <sup>3/</sup> Tr. at 29. The individual presented a letter from the court appointed counselor which indicated he met with the individual eight times. The letter indicates that the court appointed counselor believes that the individual will continue to be successful “within his therapeutic goals.” Individual Exhibit #1. The individual testified that during the counseling session he learned to understand himself and to communicate more effectively with his former girl friend in order to work out a joint custody agreement for their son. Tr. at 29. He testified that in October 2003 he obtained joint custody of his son. Tr. at 23. He testified that having joint custody has significantly improved his life and continuing that joint custody is very important to him. Tr. at 29.

The individual testified that he attended alcoholics anonymous (AA) for six months during the time he ceased consumption of alcohol in 1996, but that he is not currently attending AA. Tr. at 34.

b. Abstinence

The individual testified that in October 2001 he decided to stop consuming alcohol. He indicated that after his DWI arrest in October 2001 he determined it was not in his best interest to consume alcohol. <sup>4/</sup> Tr. at 14. The individual testified that since October 1, 2001 he has consumed alcohol on only one occasion. His one time consumption of alcohol took place in September 2002 at the time of the death of his sister, who died under unusual circumstances. The individual went to visit and comfort his father who was quite upset by the circumstances surrounding his sister’s death. His father was drinking and asked the individual to have a drink with him. In order to put his father at ease and talk with him in a relaxed atmosphere the individual agreed to have a drink with his father. The individual testified that he consumed one or two beers and one mixed drink with his father. Tr. at 84. The individual testified that this was his only consumption of alcohol since October 1, 2001.

The individual testified that since he stopped drinking alcohol he has never had a desire to consume alcohol. Tr. at 43. He further indicated that he is committed to maintaining his abstinence.

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<sup>3/</sup> The psychologist was required as a result of his July 2002 DWI arrest. Page 17 on individual’s post hearing submission.

<sup>4/</sup> The individual testified at the time of his arrest he had not consumed alcohol and the charges were subsequently dismissed. Tr. at 16.

## 2. The Individual's Girl Friend

The individual's girl friend testified that she and the individual have been living together since November 2002. Tr. at 49. She testified that she met the individual after he stopped consuming alcohol, Tr. at 52, and that she has never seen the individual consume alcohol. Tr. at 47. She testified that there is no alcohol in their home. Tr. at 49. She further testified that when they go to parties at which alcohol is available, the individual never consumes any alcohol. Tr. at 50.

The girl friend testified that when she first met the individual in October 2002, Tr. at 47, he was in trouble with the law and he thought "he couldn't do anything to pull himself out . . . his self-worth was very low." Tr. at 52. She testified that he has gotten his self-esteem back and he is a wonderful man. Tr. at 52. She indicated that the individual recognizes that he needs to take one day at a time and that he does not need to consume alcohol because there are "other things that he can be doing." Tr. at 53. She testified that it is the individual's clear intention never again to consume alcohol. Tr. at 54.

## 3. The Individual's Former Girl Friend

The individual's former girl friend testified that she lived with the individual off and on from 1994 through 2000. Tr. at 66. She testified that during that period the individual consumed alcohol and his consumption of alcohol caused problems in their relationship. Tr. at 66. She indicated that at the time they separated in 2000 the court precluded the individual from seeing his son because of the individual's alcohol abuse problems. Tr. at 69.

She testified that in 2003 the individual petitioned the court to obtain visitation rights through a joint custody agreement. Tr. at 57. She did not object to the granting of joint custody if the court was convinced that the individual would not consume alcohol. The court reviewed the individual's records regarding counseling and consumption of alcohol and directed a trial joint custody visitation plan. <sup>5/</sup> The court required as a condition of granting the joint custody that the individual not consume alcohol at any time. Tr. at 67.

The former girl friend testified that their son, who is eight years old, has told her that his father is not consuming alcohol. Tr. at 61. She testified that she knows when her son is not telling the truth and she believes her son's reports that the individual is not consuming alcohol. Tr. at 62.

Finally, she testified that the individual has changed. Tr. at 63. She indicated that after their relationship ended she was unable to communicate with the individual. Tr. at 63. However, in the last year she has seen a marked change in his behavior and they have been able to talk without having a fight. Tr. at 64.

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<sup>5/</sup> She testified that the court issued an oral ruling but has not yet issued a written determination on the custody motion. Tr. at 61.

#### 4. The Individual's Father

The individual's father testified that during the pre 1995 period when the individual was in the Navy and at college he might have had a drinking problem. Tr. at 81. He testified that his son has stopped consuming alcohol to maintain his joint custody of his son and that joint custody is very important to him. Tr. at 78. The father indicated that the only time he has seen his son consume alcohol in the last three years was in September 2002 after the death of his daughter under unusual circumstances. At that time he asked the individual if he would have a mixed drink with him. Tr. at 80. The individual agreed and he consumed one mixed drink and one beer. Tr. at 79. The individual's father testified that since September 2002 he has seen his son on a monthly basis and believes he has not consumed any alcohol during that period. Tr. at 77.

#### 5. The Individual's Stepmother

The individual's stepmother testified that she was there when the individual consumed alcohol in September 2002 but does not recall the amount he consumed. Tr. at 89. She testified that she has not seen the individual consume any alcohol since September 2002. Tr. at 89. She believes the individual is committed to his abstinence. Tr. at 88.

#### 6. Contractor Group Leader

The contractor group leader testified that he is the individual's second level supervisor. Tr. at 92. He has known the individual for a year and a half. Tr. at 92. He indicated that the individual's leave was not excessive. Tr. at 102. He testified that the individual is a competent employee. Tr. at 99.

#### 7. Sponsor-Counselor

The sponsor-counselor indicated he has worked at the site for three years with the individual and he is a great friend of the individual. Tr. at 111. He testified that during business hours he talks with the individual on a daily basis. Tr. at 109. He further testified that he was a neighbor of the individual during 2001 and 2002. Tr. at 110. He indicated that he is a member of AA and considers himself to be the equivalent of the individual's AA sponsor. Tr. at 111.

He testified that he has never seen the individual consume alcohol. Tr. at 112. He believes the individual has stopped drinking alcohol and is trying to better his life. Tr. at 113. While he has not encouraged the individual to attend formal AA meetings, he believes he has provided the individual guidance, encouragement and the knowledge and skills to remain sober. Tr. at 114 and 123. He strongly believes the individual has gained insight and understanding of his problem and will maintain his sobriety. Tr. at 115.

The sponsor-counselor was unable to describe the details of the individual's September 2002 relapse. He was also unable to describe any specific times when the individual sought counseling because he was considering consuming alcohol. Tr. at 127.

#### 8. Direct Supervisor

The direct supervisor testified that he has known the individual as a close friend off the job for ten years. Tr. at 130 and 134. He sees the individual on a daily basis at work and socializes with him on a regular basis. Tr. at 130. He testified that he has been with the individual many times when he consumed alcohol and that the last time he has seen the individual consume alcohol was in 2002 around the time his sister died. Tr. at 131. During the period 1995 through 2002 he often drank with the individual but did not believe the individual had a problem with the consumption of alcohol. Tr. at 131.

He testified that since the individual has ceased the consumption of alcohol and been through counseling, the individual is “more aware of what’s going on with - - with the feelings of other people.” Tr. at 132.

#### 9. EAP Counselor

The EAP counselor testified the individual was referred to the site clinical psychologist in June 2002. That referral resulted from management’s concerns regarding the individual’s “fitness for duty.” Specifically, management was concerned about the individual’s workplace behavior and absenteeism. Tr. at 138. After the clinical psychologist’s evaluation, the individual was required to seek counseling in order obtain a positive fitness for duty status. The counseling he selected was with the EAP counselor. He saw the EAP counselor for 31 sessions from June 2002 to February 2003 (hereinafter “the counseling period”). Tr. at 140. The EAP counselor testified that even though the individual’s alcohol problems were obvious, their session primarily focused on work place issues. During the counseling period the individual passed weekly random breathalyzer tests. Tr. at 144.

The EAP counselor testified that he recommended to the individual that he continue counseling with him after he completed the mandatory sessions from June 2002 to February 2003. Tr. at 160. However, the individual chose not to continue with counseling sessions. Tr. at 160.

He concluded by indicating that he believes the individual made “significant progress through the course of the work that we were doing.” Tr. at 163. He testified that management indicated that they had seen positive and dramatic changes in the individual’s behavior. Tr. at 166.

#### 10. The DOE Consulting Psychiatrist

The DOE consulting psychiatrist testified that in his September 2002 report he diagnosed the individual as suffering from alcohol abuse. Tr. at 174. In the report he recommended that the individual remain alcohol free, receive moderately intensive outpatient treatment for a year or two, and participate in an AA-type program. Tr. at 175.

After listening to the testimony of the individual and the other witnesses the DOE consulting psychiatrist testified that the individual's treatment program has not been "very rigorous." Tr. at 175. He reviewed a number of factors that lead him to that conclusion. He pointed out that the EAP counselor has not seen the individual for 16 months and is not currently counseling the individual. Tr. at 175. Furthermore, he pointed out that the EAP counselor's testimony indicated that the individual did not tell the EAP counselor or the site clinical psychologist about his alcohol arrests or the extent of his alcohol abuse problem. The DOE psychiatrist testified that the lack of background information is the reason the site clinical psychologist did not diagnose the alcohol abuse and the reason the EAP counselor did not deal with alcohol abuse as a primary problem. Tr. at 176. The DOE psychiatrist believes the individual failed to provide the EAP counselor with full information because at the time he was seeing the counselor, the individual did not believe he had a serious alcohol problem. Tr. at 176.

The DOE psychiatrist testified that he was not impressed by the testimony of the sponsor-counselor. He indicated that it is useful to have a knowledgeable friend who can counsel and advise, but he believes that the failure to encourage the individual to go to meetings and to actively work on his problem reduced the value of this aspect of the relationship. Tr. at 178.

He also pointed out that the individual's testimony regarding abstinence was not supported by the individual's lab tests. He pointed to the result of the individual's blood test taken at the time of the September 2002 psychiatric evaluation and the lab results the individual submitted for June 24, 2003. Individual's post hearing exhibits at 13. Both tests showed approximately the same elevated gamma GT liver enzyme levels. Tr. at 180. The consulting psychiatrist contrasted these elevated levels with the normal GT liver enzyme level found in the individual's 1998 blood test. Tr. at 180. He summarized by indicating that the higher liver enzyme levels were an indication that the individual was consuming alcohol in September 2002 and June 2003. He concluded that "My hunch is that [the results] mean he was drinking about the same in June of 2003 as when he saw me, but that's kind of speculative." Tr. at 180.

The final factor that suggested to the DOE consulting psychiatrist that the individual had not received a rigorous treatment program was the individual never received any "voluntary treatment." Tr. at 176. The counseling by the EAP counselor and by the court appointed counselor were imposed upon the individual. When the external requirement to receive counseling was removed the individual stopped going to counseling. Tr. at 176. The psychiatrist believes that this failure to obtain voluntary counseling indicates the individual does not fully recognize the seriousness of his problem nor appreciate his need for ongoing counseling to maintain his abstinence.

He summarized his testimony that the individual had not received a rigorous treatment program by testifying "So these are things of concern to me; namely, that there is a significant problem that he was not acknowledging and the treatment was entered into only under duress." Tr. at 177.

Finally, the DOE consulting psychiatrist recommended a treatment program for the individual. He suggested that the individual undertake a two-year program of counseling in order to be considered rehabilitated. Tr. at 182. At this point the individual spoke up and said that he used to be an



alcoholic. Tr. at 182. The DOE consulting psychiatrist indicated that the statement that he used to be an alcoholic is a good self evaluation statement in the early stages of rehabilitation but “not great” in terms of being reassured the individual is in a mature state of his sobriety. Tr. at 182. His main concern is the “brittleness” of the individual’s current sobriety. Tr. at 182. He explained that in the past the individual has relapsed and “I do not see a strong support program and a formalized treatment program to make me optimistic about his ability to withstand stressors and not drink.” Tr. at 183.

## V. ANALYSIS

As discussed below I have determined that the individual has not resolved the security concerns regarding his alcohol use. The individual’s first argument that he was not properly diagnosed with alcohol abuse, is not borne out by the record here. Moreover the facts do not support his further argument that he should be considered rehabilitated.

### 1. Diagnosis of alcohol abuse

Although the individual has admitted he has some alcohol problems, he indicated that he did not believe his problem with alcohol was as severe as the DOE consulting psychiatrist’s report indicated. I am not convinced. I believe the individual’s two recent arrests for DWI, his elevated GT liver enzyme levels, his relationship problems with his former girl friend and his site management’s concerns about his behavior clearly support the DOE psychiatrist opinion that the individual is properly diagnosed with alcohol abuse. 6/ I do not believe the individual’s contention that the letter from the court appointed counselor and the written “fitness for duty” evaluation of the site clinical psychologist contradict the DOE consulting psychiatrist’s diagnosis. It is true that neither diagnosed alcohol abuse. However, the role of these professionals was to treat the individual’s behavioral problems rather than to diagnose the underlying problem. The letters of the counselors provide no insight as to whether they thought the individual had an alcohol problem and they provide no support for the individual’s position. Moreover, the testimony of the EAP counselor indicates that the individual has an alcohol related problems. Accordingly, I reject the individual’s contention that the DOE consulting psychiatrist’s diagnosis of alcohol abuse was incorrect.

### 2. Rehabilitation

In order to mitigate the security concern the individual has attempted to demonstrate that he is rehabilitated. The rehabilitation showing consists of two parts. The first is his claim that he has been abstinent since October 2001. The second is that he has received counseling and family support that will enable him to maintain his abstinence.

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6/ The DOE psychiatrist also cited several events that occurred prior to the individual’s 1996 decision to stop consuming alcohol, including his 1988 military arrest, a 1990 incident in which he was a passenger in a automobile involved in an alcohol related accident, two 1966 alcohol related domestic assault arrests and a DWI arrest in 1996. DOE consulting psychiatrist report at 2 and 3.

a. Abstinence Period

I have not been convinced that the individual has only consumed alcohol on one occasion since October 2001. To support this period of abstinence the individual presented his own testimony, the testimony of his girl friend, his supervisor, his parents and his sponsor-counselor.

His parents and his sponsor-counselor testified that they believed the individual has not consumed alcohol since October 2001. However, each had only limited social contact with the individual and in total they provided very little corroboration that the individual has not, in fact, consumed alcohol since October 2001. The testimony of his girl friend covered only the period since November 2002 and suggested that the individual was having alcohol related problems which she met him in October 2002. The testimony of his supervisor suggested that the individual consumed alcohol in 2002. Therefore, I was not convinced by the testimony that the individual has consumed alcohol only once since October 2001. Furthermore, I believe there is information in the record that strongly indicates he did consume alcohol. That information is the individual's elevated GT liver enzyme level in September 2002 and June 2003 and his DWI arrest in July 2002.

Furthermore at the hearing I believed the individual failed to provide accurate information. This suggests that he is under reporting his alcohol consumption. Examples of the individual's lack of candor at the hearing are his testimony that all of his problems started when he met his former girl friend, Tr. at 30, his testimony that he told the EAP counselor "about my past and what I was facing and what I was dealing with," Tr. at 21, and his testimony that the EAP counselor understood his problem and indicated after 31 sessions that the individual did not need any additional counseling. Tr. at 22. These three statements were all untrue. The testimony indicated that he had problems with alcohol in the Navy which was before he met his former girl friend. Tr. at 30. The EAP counselor testified that he urged the individual to get additional counseling. He also testified that he counseled the individual for workplace problems and the individual never fully divulged his problems with alcohol. 7/

While I do not believe the individual has been abstinent since October 2001, the information provided at the hearing convinces me that he has not consumed alcohol since he obtained joint custody of his son in October 2003. The court custody order required the individual to maintain his abstinence. This order provided the individual with a strong incentive to abstain from consuming

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7/ There is one other item that may suggest he has not been candid during this proceeding. One of the documents that he submitted after the hearing indicates he spent 15 days in jail during the period February 18 and March 13, 2003. Post hearing submission of applicant at page 19. The court case number on that document is 2002-3179. That number is different from the case numbers of his October 2001 and July 2002 arrests and my review of the record indicates this jail time is not related to either of those arrests. The individual never discussed this jail time during the hearing.

alcohol. The testimony of his former girl friend 8/ that the individual has complied with that court order was convincing. Further support that the individual has not consumed alcohol since October 2003 was provided by the former girl friend, the current girl friend and the supervisor. Each testified independently that the individual's behavior toward others has significantly improved in the last year. The testimony of a number of different people who have perceived from different vantage points the same overall behavioral change convinced me that the individual's behavior has changed. These behavioral changes confirm the testimony of the former girl friend that the individual is complying with the court order. I therefore am convinced that the individual has been abstinent since October 2003.

b. Rehabilitation Program

I agree with the DOE consulting psychiatrist's opinion that the individual's rehabilitation program was not rigorous. The consulting psychiatrist pointed out the individual has never received any voluntary counseling and this indicates that the individual does not appreciate the severity of his alcohol related problems. Therefore the DOE psychiatrist believes that there should be stress in the individual's life such as problems with his girl friend or his joint custody agreement, the probability of a relapse is significant. I agree with the DOE consulting psychiatrist that in order for the individual to reduce the possibility of a relapse and be considered rehabilitated he needs to receive additional counseling.

## VI. CONCLUSION

I have concluded that the individual has not mitigated the DOE security concern under Criterion J of 10 C.F.R. § 710.8. In view of the record before me, I am not persuaded that restoring the individual's access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. Accordingly, I find that the individual's access authorization should not be restored.

The review procedures applicable to proceedings under Part 710 were revised effective September 11, 2001. 66 Fed. Reg. 47061 (September 11, 2001). Under the revised procedures, the review is performed by an Appeal Panel. 10 C.F.R. § 710.28(b)-(e).

Thomas L. Wieker  
Hearing Officer  
Office of Hearings and Appeals

Date: September 3, 2004

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8/ The former girl friend is clearly not a friend of the individual. Therefore, I have every reason to believe that her favorable testimony is candid.

## Appendix A

10/01	Arrest for DWI	- Case #2001-00582
6/02	“Fitness for duty” evaluation by site clinical psychologist	
6/02-2/03	31 counseling sessions with EAP counselor to help establish individual’s “fitness for duty”	
7/12/02	Arrest for DWI and driving on revoked license	- Case #2002-00498
9/02	Drinks with his father	
9/02	DOE Psychiatrist’s evaluation	
1/22/03	Follow up “fitness for duty” evaluation by site clinical psychologist	- found fit for duty
2/18-3/17/03	During this period served 15 days in prison	- Case #2002-03179
3/18/03	Plead guilty to 7/02 DWI & revoked license	- Case #2002-00498
5/03	Lost access authorization	
6/03	Blood Test indicates elevated gamma GT liver enzyme	
8/03	Start of 8 court ordered counseling sessions	- Case #2002-00498
8/12/03	Ignition interlock installed on his car	- Case #2002-00498
10/03	Visitation with his son restored by court	
10/03	Received a restricted license permitting him to drive between 7 AM and 7 PM	
1/04	Notification letter issued to individual	
7/04	Access authorization hearing held	